

**BRIAN BELL,** )  
) )  
**Plaintiff,** )  
) )  
**v.** ) **Case No. 1:16-cv-00501-JDL**  
) )  
**O'REILLY AUTO** )  
**ENTERPRISES, LLC, d/b/a** )  
**O'Reilly Auto Parts,** )  
) )  
**Defendant.** )

Defendant O'Reilly Auto Enterprises, LLC ("O'Reilly Auto") has moved the Court *in limine* (ECF No. 55) for an Order specifying that the following conclusion from the summary judgment order (ECF No. 44) be treated as an established fact in the upcoming trial between the above-captioned parties, pursuant to Fed. R. Civ. P. 56(g): "That the Plaintiff's ability to work long hours on short notice at unpredictable times was an essential function of the Plaintiff's Store Manager position at O'Reilly Auto Parts." See ECF No. 55 at 1. Bell opposes the motion (ECF No. 67).

The summary judgment record supports the Court’s factual determination that Bell’s ability to work long hours on short notice at unpredictable times was an essential function of Bell’s Store Manager position at O’Reilly Auto. At trial, however, the parties will have the opportunity to delve into the parameters of this function through live witness testimony which will explain the Store Manager’s role in the operation of O’Reilly Auto’s retail stores. A jury may therefore reasonably define this

essential job function with more precision (and, therefore, differently) than that permitted by the written summary judgment record. Accordingly, the motion *in limine* is **DENIED**.

**SO ORDERED.**

**Dated this the 13th day of July, 2018.**

**/s/ JON D. LEVY**  
**U.S. DISTRICT JUDGE**